

Sierra Club California

Forest Conservation Committee

P. O. Box 256

Philo, CA 95466

707-895-3716 fax 895-3746

May 1, 2002

Andrea Tuttle, PhD, Director
California Department of Forestry
1416 - 9th Street
PO Box 944246
Sacramento, CA 95814
VIA FACSIMILE 916-653-4171

Cost of JDSF public review documents

Dear Director Tuttle:

As a member of the State Forest Advisory Committee, I want to thank you for joining us during our field trip to Jackson Demonstration State Forest (JDSF) on April 5. I'm sure we all found our tour helpful in gaining insight into the wonderful potential of that forest.

Prior to leaving for the field we discussed the imminent release of the 2nd Draft of the Management Plan for Jackson and the EIR associated with it. At the time it was stated that, to contain costs, CDF hoped that the primary means of distribution would be via the internet and Compact Disc (CD) although paper copies would also be available. I write in hopes of promoting a meeting of the minds regarding the public's right under the law to reasonable, affordable, access to documents subject to public review under the California Environmental Quality Act (CEQA).

Section 15045 (b) of the CEQA Guidelines states: "Public agencies may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the actual cost of reproducing a copy."

Several issues should be clarified:

1. Who is responsible for distribution
2. Paper copies to be easily available and at reasonable cost
3. Cost of CDs

At the time of distribution of the 1st Draft of the Management Plan, CDF made paper copies available at several libraries in Mendocino County and placed a copy at a commercial copy shop for individuals to order. The cost per copy to

the public for this 206-page document was upwards of \$30 per copy. The bulk buying power of the state never kicks in under this sort of distribution scenario. For instance, at a large commercial copy shop in Ukiah, a single copy of a 250 page document costs twice as much as each copy would cost if 100 were printed.

CDF's own distribution of the 1st Draft of the Plan was very limited. It is my understanding that CDF produced only 50 copies. Your staff was kind enough to provide me with a copy without charge, and I do appreciate that very much. However, for instance, several members of the Mendocino County Board of Supervisors were not provided a copy, even though CDF made a formal presentation to the Board regarding the Plan. The cost of the 1st Draft of the Plan was such an issue for the public that California Native Plant Society representative Greg Jirak offered to buy copies for those wishing to review it who felt its cost was prohibitive for them. According to Jirak, he received requests from 25 people, and he provided them copies. Thus, CDF distributed only twice as many copies as Jirak, himself, did. Although Jirak's deed was exceedingly generous, certainly the public has the right to expect that availability of documents should not be dependent on an interested party having the means and inclination to provide such a public service.

Library copies and internet availability may not be as adequate a solution as it might seem in Sacramento. One may presume that, with Jackson located in Mendocino County, there may be a higher than average interest here to review the document. Internet connections here are overwhelmingly of the dial-up sort. A single one of the eight color maps in the 1st Draft took my connection (as high quality as is available in a dial-up) upwards of 20 minutes to download. I will never be able to print it out, as it is too large for a standard home computer printer.

Additionally, for instance I am an hour's drive, each way, to the nearest library. This is not at all unusual here. Library hours are another impediment. The main branch of the library, in Ukiah, is open only one day a week in the evening, until 8 PM, and closed on Sunday. The Ft. Bragg branch differs in minor detail, but the general problem is the same.

Although, in my opinion, nothing can substitute for having a document in hand to page back and forth and stick up with post-it notes (my 1st draft is bristling with such memory aides), some will no doubt prefer to receive the Plan as a CD. This would seem to be an inexpensive option for some. After we discussed this subject at the Advisory Committee meeting, I was very surprised to discover that the CD is not, in fact, inexpensive. Your website directs us to purchase CD's of the 1st Draft direct from a private company, with the charge being \$25 plus shipping. This is hard to understand, as a call to Staples in Ukiah brings the information that they charge \$5 per document CD copy with the customer providing the CD. CDs are \$38 per 100, IE \$0.38 each, bringing a copy there to \$5.38.

According to the information that was provided at the State Forest Advisory Committee meeting, the 2nd Draft of the Management Plan will be of similar size as the 1st Draft. The EIR will be around 500 pages. So this would amount to roughly 700 pages of total text plus maps. Thus, if the same distribution scenario is used, the public may be facing a cost of almost \$100 each for a hardcopy to review, and at least \$50 for a set of CDs, assuming the documents will fit on two CDs. Costs at this level would prohibit much of the public from reviewing and commenting on the draft Plan and the EIR. Further, we are unaware of any other document of similar scope that costs anything remotely this much for the public.

We recognize that California's budget woes are causing problems throughout state government. We also recognize that CDF believes that some of its own budgetary constraints stem from the injunction that prevents logging at Jackson prior to completion of the new Management Plan. However, even in the face of this background, we believe CDF can take steps to minimize the cost of the documents that it must provide to the public for review.

Principally, one obvious method that could be brought to bear would be having the documents produced for CDF and distributed by you. Thus, bulk-buying discounts would apply. Going back to the CEQA Guidelines referenced at the beginning of this letter: "Public agencies may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the actual cost of reproducing a copy." The Guideline specifies that it is the public agency that may collect the reasonable fee and that it may not exceed the actual cost of reproducing a copy. We interpret that to mean the actual cost *to the public agency*, not the retail price from a private business.

Although I have expressed concerns on this matter in the past, I apologize for the timing of this detailed communication. I realize the Plan must be near its release. My recent recognition that even the CDs were prohibitively expensive propelled me to raise this issue again at this time.

Again, thank you for your leadership in advancing the adoption of a new Management Plan for Jackson Demonstration State Forest.

Sincerely,

Kathy Bailey

Kathy Bailey

Cc: Resources Secretary Mary Nichols
Assemblymember Virginia Strom-Martin
Senator Wesley Chesbro
Chris Rowney, Deputy Chief, State Forest Program

Sierra Club California

Forest Conservation Committee

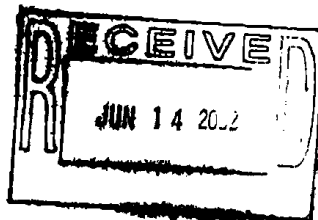
P. O. Box 256

Philo, CA 95466

707-895-3716 fax 895-3746

June 12, 2002

Chris Rowney, Deputy Chief
State Forest Program
California Department of Forestry
PO Box 944246
Sacramento, CA 94244
Via Fax 916-653-8957



JDSF DEIR Comment Period

Dear Deputy Chief Rowney:

On behalf of Sierra Club and as a member of the State Forest Advisory Committee, I hereby request that the public comment period for the Jackson Demonstration State Forest Draft Environmental Impact Report (DEIR) be extended well beyond the currently scheduled closing date of July 8. I base this request on the lack of availability of the documents that the public is supposed to be reviewing.

Although I attempted to order both the hard copy and CD versions of both the DEIR and the Jackson Forest Management Plan (Forest Plan) the day I received notification that these documents were available, they were not actually available at the contractor. You subsequently extended the close of the comment period from July 1 to July 8. However, the Forest Plan itself was not available for distribution in hard copy until June 4, 2002. I know this is true because it was on this date that Ed from Mendo Litho, the hard copy vendor specified in the Public Notice, called to advise me that on that date, they had the CD from which they would be printing the hard copy *and* they had the time to do the reproduction. Cost to me was \$41.64. I made a note of this date as I had been under the impression until then that a copy of the Forest Plan was already in the mail to me as I had long since requested it.

Upon my original request for documents, Mendo Litho had delayed sending me the DEIR hard copy because they were waiting for the Forest Plan to arrive so they could ship them together. After a considerable wait for the documents, at my insistence (and my expense for extra shipping), they sent the DEIR first. Then, a few days later, I received another call telling me that the DEIR copy I had received had significant errors, as an entire set of charts, some 26 pages dispersed throughout the DEIR, were not filled in to indicate impacts due to a

faulty original document file. These 26 pages are now inconveniently clipped to my copy of the DEIR and must be shuffled around when examining the charts. That the faulty DEIR cost me \$85 to buy only adds the proverbial insult to injury.

As you know there was also a problem with the CD version of the Forest Plan that was not resolved until June 4. On that day, your staffer Candace called to get my physical address so CDF could ship a CD to replace an incomplete version I had received after ordering CDs from On-Line Copy, the CD vendor specified in the Public Notice. Cost of each CD was \$9.95 for the DEIR and another \$9.95 for the Forest Plan. I appreciate that CDF sent me a replacement copy CD without charge.

As far as I can tell, the vendors have been responding to document requests to the best of their ability given the lack of availability of accurate original documents. Nothing in this communication should be construed as critical of their performance.

Counting 45 days from June 5 suggests the comment period should close no earlier than July 19. In light of the number of phone calls and confusion causing a significant distraction from actual review of documents, I would suggest providing a grace period, and closing comment on July 26.

I had communicated with you prior to the release of the DEIR and Forest Plan regarding cost issues for review documents. I am re-transmitting that letter attached to this one to make sure it is included in the record. Both that letter and this should be made part of the official review record on the DEIR and Forest Plan.

We recognize that CDF does not often have to deal with the full EIR process and is also working under significant financial constraints. We must, however, insist on behalf of the public that both the letter and intent of the California Environmental Quality Act be fulfilled. Thank you for your consideration of this request for an extension of the public comment period.

Sincerely,

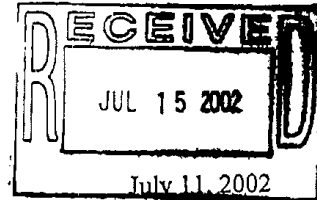
Kathy Bailey

Kathy Bailey

Cc: Resources Secretary Mary Nichols
Assemblymember Virginia Strom-Martin
Senator Wesley Chesbro

PAUL V. CARROLL

Attorney at Law
5 Manor Place
Menlo Park, California 94025
telephone (650) 322-5652
facsimile (same)



Andrea Tuttle, Director
California Department of Forestry and Fire Protection
P.O. 944246, Rm. 1505
Sacramento, CA 94244-2460

RE: DEIR for Jackson Demonstration State Forest Draft Management Plan

Dear Director Tuttle:

I am assisting several people in their efforts to understand and comment on the draft environmental impact report (draft EIR) for the Jackson Demonstration State Forest Draft Management Plan.

I understand that the California Department of Forestry and Fire Protection (CDF) has given the public until July 19, 2002, to comment on the draft EIR. For a number of reasons, I respectfully request that you provide the public at least several additional weeks.

First, as you know, it was difficult if not impossible to obtain the draft EIR when it first came out. As a result of this delay, the comment period was extended briefly, but members of the public feel that even with the additional time, they have not had the minimum 45 days in which to review and comment on the plan.

But there is a more compelling reason to lengthen the comment period, namely the public importance of Jackson Demonstration State Forest and the magnitude of the project at hand, approval of a plan for its management in the coming years. The forest itself comprises almost 50,000 acres. Rarely does one see a project of this size being reviewed under the California Environmental Quality Act (CEQA). CEQA points out that in the ordinary situation, the 45-to-60-day comment period for an EIR should suffice, but states that in unusual circumstances a longer comment period is warranted. (CEQA Guidelines, § 15105(a).) Clearly, a longer comment period is warranted here. This is the largest public, state-owned forest in California. I think we all agree that the people of California would prefer to see

more review and comment before the project is approved, rather than less. The public after all is not in the same hurry as the private landowner to see his or her project through the system.

There is yet another reason why CDF should grant even a brief extension of time for public comment, namely the appearance of fairness and impartiality. Let me explain. I am aware that CDF is considering approval of a negative declaration for the conversion of 88 acres of private timberland to vineyards in Sonoma County. (Campbell Vineyard timberland conversion SCH 2001082037, CDF No. 1-00-147 SON.) On August 8, 2001, this negative declaration was issued by you. The public comment period for a negative declaration is ordinarily 30 days. Yet in the Campbell's case, the public comment period has remained open until this very day, almost one year. And there appears to be a reason for this never-closing comment period: it has allowed the Campbells' experts to belatedly place evidence in the record that attempts to rebut the earlier comments of members of the public.

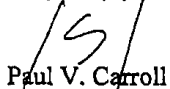
This dichotomy—an endless comment period for the negative declaration on an 88-acre project versus a 63-day comment period for an EIR on a 50,000-acre project—is inexplicable, unless one is cynical. The cynical interpretation is that CDF is favoring the landowner in the Campbell case by augmenting comment; and favoring its own interests in Jackson Demonstration State Forest by limiting it.

But cynicism aside, CDF's current procedures are so radically inconsistent that they give the appearance of caprice, rather than the rule law. They trouble the public and expose CDF to charges of unlawfulness.

CDF could rectify the situation if it gave the public a full and robust opportunity to digest the draft EIR and comment intelligently on it. But that requires more time than the public has been given.

Thank you. The courtesy of a response before July 19, 2002, would be greatly appreciated.

Very truly yours,


Paul V. Carroll

cc: Assemblymember Virginia Strom-Martin
Senator Wesley Chesbro
Norm Hill, Esq., CDF
Christopher Rowney, CDF



Campaign to Restore Jackson State
Redwood Forest
100 Manzanita Street
P.O. Box 1789
Fort Bragg, CA 95437

June 10, 2002

Andrea Tuttle, Director
California Department of Forestry
PO Box 844246
Sacramento, CA 94244-2460
Fax: (916) 653-4171

Dear Director Tuttle:

According to CEQA, the EIR must be available for purchase at the beginning of the public comment period. The draft Management Plan is an integral part of the EIR and must also be available. The place specified by CDF for purchasing copies of the EIR is Mendo Litho in Fort Bragg. We requested copies of the Management Plan from Mendo Litho as soon as we learned that it was not incorporated in the EIR document. Mendo Litho was unable to produce them for us until 3:30 PM, Friday, June 7. I believe a reasonable interpretation of the law requires that they be available early in the business day.

I request that you conform to the legal requirements of CEQA by restarting the comment period as of June 10, 2002 (or possibly later, for reasons explained below). I have no doubt that you are legally required to do as I request, and I hope that you will take this action immediately.

Given the late availability of the draft management plan, there is not adequate time to prepare oral comments on the draft EIR for the comment meeting scheduled for June 12 in Ukiah. I urge that you schedule another comment meeting in Fort Bragg at the approximate midpoint of the revised comment period. Without this additional comment meeting, CDF will be merely mocking the CEQA requirement to gain maximum public participation in the EIR review process.

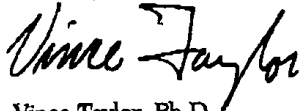
To ensure conformance with CEQA, you need also to make available copies of the EIR and Management plan in libraries in Marin County, San Francisco, Palo Alto, and Berkeley. CEQA requires that copies of draft EIRs be furnished to public library systems serving the area involved (CEQA Guidelines, section 15087, subd (g)). JDSF is a state forest and serves all of the people of California. The volume of requests that you have received from people in locations cited above is ample demonstration that these areas are "involved" in management of Jackson Demonstration State Forest. You will minimize legal uncertainties by placing the required documents in libraries throughout the Bay Area and restarting the comment period once this action has been accomplished.

Tel: 707 964-5800 Fax: 707 964-8202 campaign@jacksonforest.com

www.jacksonforest.com

Please inform me as soon as possible of your planned actions. Please call me at 707 937-3001 or fax to 707 937-3192.

Sincerely,

A handwritten signature in black ink that reads "Vince Taylor". The signature is written in a cursive, flowing style.

Vince Taylor, Ph.D.

Executive Director

CC.: Chris Rowney, Representative Virginia Strom-Martin, Senator Wes Chesbro



FORESTS FOREVER

973 Market St. #450, San Francisco, California 94103
Phone: 415/974-3636 FAX: 415/974-3664

Christopher P. Rowney
Program Manager, CDF
Sacramento, CA 94244-2460

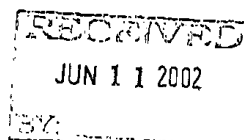
June 10, 2002

Dear Christopher P. Rowney:

We are a San Francisco based non-profit organization working in the greater Bay Area to educate and activate the public regarding California forestry issues. We have a membership base of thousands of California constituents and many have expressed great concern over the outcome of the Environmental Impact Report (EIR) and Management Plan (MP) for their largest public forest, Jackson Demonstration State Forest. Residents in the Bay Area need to have a local location where they can review hard copies of the EIR and MP, such as local libraries, free of charge, so they can have the opportunity to respond with their public comments. Both of these documents need to be made available together as they refer to each other in their text. I spoke with you on May 21, 2002 regarding this issue and you stated that the information is available on your website. We feel this is insufficient for the public at large because not everyone has a computer or web access, therefore we request that you make these documents available in the Bay Area.

Sincerely,
Kristin Kirk
Kristin Kirk
Development Associate
Forests Forever

Restore • Reinhabit • Re-enchant



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.fire.ca.gov
(916) 653-7772



R34

July 18, 2002

Paul V. Carroll, Attorney at Law
5 Manor Place
Menlo Park, California 94025

Dear Mr. Carroll:

Late last week, the Department of Forestry and Fire Protection (CDF) received, via facsimile, your letter requesting an extension of the public comment period for the Draft Environmental Impact Report (DEIR) for the Jackson Demonstration State Forest Draft Management Plan (DFMP). This letter is a follow up to the phone call you received from Chris Rowney on Wednesday, July 17, 2002 denying your request.

You state that "it was difficult if not impossible to obtain the draft EIR when it first came out." The original Notice provided the public set May 17, 2002 as the date when the DEIR was available and the end of public comment period as July 1, 2002. The Notice stated that the DEIR was available for public review in nine specific libraries in Sacramento, Humboldt, Mendocino, and Sonoma Counties; at four CDF offices in Mendocino, Sonoma, and Sacramento Counties; on CDF's website; and by purchase of a compact disc (CD) directly from a vendor in Fremont, California, and hard copy available for purchase from a vendor in Fort Bragg, California. All of these locations had the copies on May 17 with the exception of the CD version of the DEIR which did not get to the vendor in Fremont, although he had the CD for the DFMP. Also, the vendor in Fort Bragg had a copy of the DEIR for reproduction, but did not receive a copy of the DFMP.

The problems with the CD version of the DEIR availability from the Fremont vendor and the DFMP availability from the Fort Bragg vendor were identified on or about May 22, 2002. CDF immediately sent an electronic copy of the DEIR to the vendor in Fremont and hand delivered, on May 24, 2002, a hard copy of the DFMP to the Fort Bragg vendor. CDF also published a supplemental public notice which extended the public comment period one week to July 8, 2002.

On June 3, 2002, CDF was informed by a member of the public that the DFMP was not available from the vendor in Fort Bragg. Without informing CDF, the vendor had changed his copy process to one which required an electronic copy rather than the camera-ready hard copy provided to him. CDF immediately provided the vendor with the electronic copy of the DFMP. On June 14, CDF received a letter from the Sierra Club which requested extension of the comment period on the DEIR since a copy of the DFMP was not available from the Fort Bragg vendor until June 4, 2002. On June 20, 2002, CDF published another public notice extending the public comment period for the DEIR to July 19, 2002.

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PLEASE REMEMBER TO CONSERVE ENERGY. FOR TIPS AND INFORMATION, VISIT "FLEX YOUR POWER" AT WWW.CA.GOV.

Paul V. Carroll
July 18, 2002
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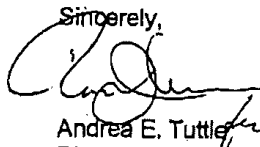
The DEIR has been available for public review since May 24, 2002. Comments received at the public hearing on June 12, 2002 and letters received since that date clearly state that persons were able to get copies of the DEIR and read or download the DEIR from the CDF website prior to June 4. The DFMP has also been available at all sites since May 24, with the exception of acquiring a hard copy at the Fort Bragg vendor which was available as of June 4. The total time available for review of these documents by July 19, 2002, has been at least 45 days.

The original version of the draft management plan was made available, both electronically and in hard copy in May, 2001. There are some changes to that document, which resulted from comments made by both public agencies and the general public. Those changes are included in the DFMP dated May 17, 2002.

You also state that an extension is justified due to the large size of the forest. Jackson Demonstration State Forest has operated pursuant to a series of Management Plans over the past several decades. Those Management Plans have all had, as their basis, direction from the Board of Forestry and Fire Protection and the Legislature. The DEIR does analyze different approaches to management of the Forest with recognition of new priorities, but it does not propose changing the basic use of the land as forestland, something that is far more frequent in other CEQA related analyses.

Your letter inaccurately describes the time allotted for public comment on a negative declaration for the conversion of 88 acres of private timberland to vineyards in Sonoma County (SCH2001082037, CDF No. 1-00-147 SON). You state that the public comment has been open since August 8, 2001. On August 8, 2001, a Notice of Intent to Adopt a Negative Declaration for Timberland Conversion was circulated through the County Clerk's office and through the State Clearinghouse pursuant to Title 14 CCR §15072. The public comment period for the Negative Declaration began on August 9, 2001 and ended on September 7, 2001. Analysis of comments received during that period may result in a recirculation of the Negative Declaration, however there is no inconsistency in process relative to the comment period for the DEIR as you allege.

The public has been afforded an appropriate amount of time to submit comments on the DEIR for the Jackson Demonstration State Forest Management Plan. In fact, CDF has received over 2000 written comments to date. I do not agree that an extension is appropriate or necessary.

Sincerely,

Andrea E. Tuttle
Director